

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**DANNY F. LANE,**

**Plaintiff,**

**v.**

**NASH FINCH COMPANY, a  
corporation,**

**Defendant.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**CASE NO. 8:11CV241**

**ORDER**

This matter is before the Court on the Plaintiff's unopposed Notice of Case Dismissal (Filing No. 35). This Court previously ordered the transfer of this case to the United States District Court for the District of Minnesota pursuant to a Memorandum and Order entered on September 26, 2011. (Filing No. 34.) The case has not yet been transferred from this Court. In light of the circumstances, the Court will construe the Notice as a motion under Federal Rule of Civil Procedure 60(b) and 41(a)(1)(A)(i), vacate the Memorandum and Order entered on September 26, 2011 (Filing No. 34), and approve the Notice of Case Dismissal.

Accordingly,

IT IS ORDERED:

1. The Memorandum and Order (Filing No. 34) is vacated;
2. The Notice of Case Dismissal (Filing No. 35) is approved;
3. This action is dismissed without prejudice; and
4. By virtue of the agreement between the parties, the Court will not assess costs or attorney's fees in this case.

DATED this 3<sup>rd</sup> day of October, 2011.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge